

49 CFR Part 173

[Docket No. HM-166M; Amdt. No. 173-55]

Reinstatement of Department of Energy Approval Authority for Radioactive Materials Package Designs

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to reinstate authority to the Department of Energy (DOE) for the evaluation and approval of radioactive materials package designs. Prior authority was removed effective December 1, 1980. This action is necessary in order to avoid delays in the approval process which could severely limit the effectiveness of DOE nuclear programs.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Richard R. Rawl, Chief, Radioactive Materials Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202-426-2311).

SUPPLEMENTARY INFORMATION: On December 11, 1980, the MTB published Docket No. HM-56; Amdt. No. 106-3, 107-8, 171-58, 172-63, 173-142, 174-39, 175-18, 176-12, 177-51, 178.64 (45 FR 81570) which made numerous miscellaneous changes to 49 CFR. Item Number 39 of the referenced docket changed the designations "U.S. Atomic Energy Commission" and "USAEC" to read "U.S. Nuclear Regulatory Commission" and "USNRC" each time they appeared in the following sections and section headings: § 173.393a(a), (a)(1), (a)(2) (a)(3) and (a)(5), § 173.394(b)(3) and (c)(2), § 173.395(b)(2) and (c)(2), § 173.396(b)(4) and (c)(3). Prior to the above changes, the DOE and the NRC as successors to the Atomic Energy Commission had approval authority under the above referenced sections. Although the final rule was not intended to impose burdens upon any person, it did have an impact on the ongoing programs of DOE. The DOE has stated that their energy, space, medical, industrial and waste programs would meet with lengthy delays if all package designs were required to pass through the approval process of the NRC and these delays could severely limit the effectiveness of the DOE nuclear program.

In view of the strict procedures the DOE requires to be followed to certify its own package designs for radioactive materials, the MTB agrees that DOE

packaging requirements and evaluation techniques which demonstrate compliance with safety standards equivalent to those contained in 49 CFR Parts 100 to 177 and 10 CFR Part 71 are sufficient to protect the public health and safety.

Since this amendment is only reinstating an approval authority that was in 49 CFR prior to Docket HM-56 and does not impose additional requirements, public notice has not been provided and this amendment is effective without delay.

In consideration of the foregoing, Part 173 is amended to read as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In § 173.7, paragraph (d) is added to read as follows:

§ 173.7 U.S. Government material.

(d) Notwithstanding the requirements of §§ 173.393a and 173.394 through 173.396 of this subchapter, packagings made by or under the direction of the U.S. Department of Energy may be used for the transportation of radioactive materials when evaluated, approved, and certified by the Department of Energy against packaging standards equivalent to those specified in 10 CFR Part 71. Packages shipped in accordance with this paragraph shall be marked and otherwise prepared for shipment in a manner equivalent to that required by this subchapter for packagings approved by the Nuclear Regulatory Commission.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Note.—Because this amendment is only a reinstatement of a prior approval, the Materials Transportation Bureau has determined that the final rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4455 Filed 2-17-82; 8:45 am.]

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